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103D CONGRESS
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HOUSE OF REPRESENTATIVES
REPT. 103–601
Part 3

HEALTH SECURITY ACT

JULY 28, 1994.—Ordered to be printed

Mr. DELLUMS, from the Committee on Armed Services, submitted the following

REPORT

together with

SEPARATE VIEWS

[To accompany H.R. 3600 which on November 20, 1993, was referred jointly to the Committee on Energy and Commerce, to the Committee on Ways and Means, and to the Committee on Education and Labor for consideration of such provisions in titles I, III, VI, VIII, X, and XI and part 1 of subtitle C of title V as fall within its jurisdiction pursuant to clause 1(g) of rule X; and concurrently, for a period ending not later than two weeks after all three committees of joint referral report to the House (or a later time if the Speaker so designates), to the Committee on Armed Services for consideration of subtitle A of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(c) of rule X, to the Committee on Veterans' Affairs for consideration of subtitle B of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(u) of rule X, to the Committee on Post Office and Civil Service for consideration of subtitle C of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(o) of rule X, to the Committee on Natural Resources for consideration of subtitle D of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(n) of rule X, to the Committee on the Judiciary for consideration of subtitles C through F of title V and such other provisions as fall within its jurisdiction pursuant to clause 1(l) of rule X, to the Committee on Rules for consideration of sections 1432(d), 6006(f), and 9102(e)(5), and to the Committee on Government Operations for consideration of subtitle B of title V and section 5401]

The Committee on Armed Services, to whom was referred the bill (H.R. 3600) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

81–701

Strike subtitle A of title VIII (page 1207, line 1, through page 1217, line 19) and insert the following:

Subtitle A—Military Health Care Reform

SEC. 8001. REIMBURSEMENT BY MEDICARE FOR CARE PROVIDED MEDICARE-ELIGIBLE INDIVIDUALS.

(a) REIMBURSEMENT AUTHORIZED.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1073 the following new section:

"§ 1073a. Care provided Medicare-eligible individuals: reimbursement by Secretary of Health and Human Services

"(a) REIMBURSEMENT.—(1) In the case of care provided under a certified health plan to a covered beneficiary who is a Medicare-eligible individual, the Secretary of Health and Human Services shall reimburse the plan as a Medicare HMO in the same amounts and in the same manner as that Secretary reimburses other Medicare HMOs.

"(2) In the case of care provided by a certified facility of the uniformed services outside the context of a health plan to a covered beneficiary who is a Medicare-eligible individual, the Secretary of Health and Human Services shall reimburse the facility as a Medicare provider in the same amounts and in the same manner as that Secretary reimburses other Medicare providers. The Secretary of Health and Human Services shall include with each such reimbursement a Medicare explanation of benefits.

"(b) CERTIFICATION REQUIREMENT.—The Secretary of Defense shall certify to the Secretary of Health and Human Services each year—

"(1) a list of all facilities of the uniformed services that, with respect to Medicare requirements that are applicable to a public facility, either fully meet or exceed Medicare requirements, or fully comply with requirements of the administering Secretaries that are intended to achieve the same or similar purposes as Medicare requirements and which are no less stringent than such Medicare requirements; and

"(2) a list of all health plans conducted by the Secretary of Defense that, with respect to Medicare HMO requirements that are applicable to a health plan of a public entity, either fully meet or exceed Medicare HMO requirements, or fully comply with requirements of the administering Secretaries that are intended to achieve the same or similar purposes as Medicare HMO requirements and which are no less stringent than such Medicare requirements.

"(c) EFFECT OF CERTIFICATION.—For purposes of the Medicare program—

"(1) a Department health care facility for which there is a certification in effect under subsection (b)(1) and which provides care to Medicare-eligible individuals shall be deemed to be a Medicare provider; and

"(2) a health plan for which there is a certification in effect under subsection (b)(2) and which provides care to Medicare-eligible individuals shall be deemed to be a Medicare HMO.

"(d) DEFINITIONS.—In this section:

"(1) The term 'Medicare program' means the health insurance program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(2) The term 'Medicare-eligible individual' means an individual who is entitled to benefits under part A of the Medicare program.

"(3) The term 'Medicare HMO' means an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm).

"(4) The term 'Medicare provider' means an individual or entity furnishing items or services for which payments may be made under the Medicare program.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1073 the following new item:

"1073a. Care provided Medicare-eligible individuals: reimbursement by Secretary of Health and Human Services.".

(b) CONFORMING AMENDMENT REGARDING THIRD PARTY COLLECTION.—Section 1095(d) of title 10, United States Code, is amended—

(1) by striking "XVIII or"; and

(2) by striking "1395" and inserting "1396".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on January 1, 1995.

SEC. 8002. CONFORMING AMENDMENT FOR THE PROVISION OF DATA BANK INFORMATION TO DEPARTMENT OF DEFENSE.

(a) ADDITIONAL PURPOSE OF DATA BANK.—(1) Subsection (a) of section 1144 of the Social Security Act (42 U.S.C. 1320b–14) is amended—

(1) in the matter preceding paragraph (1), by striking "Medicare and Medicaid" and inserting "Health Care";

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting ", and"; and

(4) by adding at the end the following new paragraph:

"(3) assist in the identification of, and the collection from, third parties responsible for payment for health care items and services furnished to uniformed services beneficiaries under chapter 55 of title 10, United States Code.".

(b) DISCLOSURE OF DATA BANK INFORMATION TO THE SECRETARY OF DEFENSE.—Subsection (b)(2)(B) of such section is amended by inserting "to the Secretary of Defense (or other administering Secretary under chapter 55 of title 10, United States Code) and" after "Data Bank".

(c) CLERICAL AMENDMENT.—The heading of such section is amended by striking "MEDICARE AND MEDICAID" and inserting "HEALTH CARE".

EXPLANATION OF THE COMMITTEE AMENDMENT

The committee adopted an amendment in the nature of a substitute during consideration of subtitle A of title VIII of H.R. 3600. The bill, as amended, is discussed in the remainder of the report.

PURPOSE

The purpose of subtitle A of title VIII of H.R. 3600, as amended, is: (1) to authorize Medicare reimbursement to the Department of Defense (DOD) for health care services to Medicare-eligible DOD beneficiaries provided under a DOD health plan or by a military medical facility certified to comply with Medicare requirements; and (2) to provide the Secretary of Defense access to insurance coverage information in the Medicare and Medicaid coverage data bank.

LEGISLATIVE HISTORY

H.R. 3600 was introduced on November 20, 1993, by Representative Richard A. Gephardt and 103 cosponsors. The bill was jointly referred to the Committee on Energy and Commerce, to the Committee on Ways and Means, and to the Committee on Education and Labor with subsequent concurrent referral to seven other committees, including the Committee on Armed Services.

On July 19, 1994, the subcommittee on Military Forces and Personnel held a hearing on the role of the Department of Defense in health care reform. The subcommittee received testimony from Dr. Stephen C. Joseph, the Assistant Secretary of Defense for Health Affairs; the Service Surgeons General; and Dr. R. Gail Wilensky, Senior Fellow at Project HOPE and the former Administrator of the Health Care Financing Administration.

On July 20, 1994, the Subcommittee on Military Forces and Personnel met to consider subtitle A of title VIII of H.R. 3600. The subcommittee adopted an amendment in the nature of a substitute by a voice vote.

The committee considered the subtitle on July 26, 1994, and approved it by a voice vote.

BACKGROUND

DESCRIPTION OF THE MILITARY HEALTH CARE SYSTEM

The military health care system is very different from any other medical system in the nation because it serves two unique missions: wartime medical readiness and peacetime beneficiary care.

For the medical readiness mission, the military services maintain an extensive system of major medical centers, community hospitals,

and clinics that employ thousands of uniformed and civilian health care providers in order: (1) to maintain the health of the active duty population; and (2) to be immediately available to care for casualties in the event of war or national emergency.

Active duty military personnel obtain care in military hospitals and clinics as part of the system's readiness mission. In addition, all nonactive-duty beneficiaries [i.e., dependents of active duty personnel, retirees, their dependents, and survivors] are eligible for care in military hospitals and clinics on a "space available" basis. Demand often exceeds supply, and space may not be available due to resource constraints, such as staffing, facility or equipment limitations.

Nonactive-duty beneficiaries, under age 65, may also seek care from civilian providers and be reimbursed by the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). After reaching age 65, nonactive-duty beneficiaries are reimbursed by Medicare instead of CHAMPUS.

DESIGNING A HEALTH CARE SYSTEM FOR THE FUTURE

Like the nation's health care system, the CHAMPUS program has been plagued by medical cost growth in excess of the rate of inflation for the economy as a whole. In fact, CHAMPUS costs soared during the 1980s, more than doubling over a several year period. By the mid- to late-1980s, both Congress and the Department of Defense were actively seeking ways to control cost growth in the CHAMPUS program while, at the same time, increasing beneficiary access to care in less expensive military medical facilities.

One reason for CHAMPUS cost escalation in the 1980s was the lack of fiscal accountability between military hospital operations, funded by each service's operation and maintenance appropriation, and CHAMPUS, a separately funded DOD account. As a result, the Department of Defense, under congressional direction, undertook several demonstration projects to test ways to provide better interaction between funding provided for military hospital operations and CHAMPUS.

Building on the result of these initiatives, the Department of Defense is implementing a regionalized managed care program, called TRICARE, which is designed to achieve maximum use of military medical facility assets supplemented by wrap-around support contracts, including networks of civilian providers, funded by CHAMPUS dollars. Under TRICARE, beneficiaries would have three options: enrolling in a DOD health maintenance organization [HMO]; receiving care through a preferred provider network offering discounted rates; or receiving care on a fee-for-service basis through standard CHAMPUS.

If managed efficiently, the HMO option has the potential to reduce costs for the military hospital system, the CHAMPUS program, and the individual beneficiary who would enjoy reduced out-of-pocket costs relative to standard CHAMPUS. Such efficient management depends on the use of CHAMPUS dollars to expand the availability of care provided in military medical facilities when the military medical facility can provide the medical service or procedure at less cost than the civilian sector.

Unfortunately, the same option to obtain maximum return on Federal Government health care dollars does not exist in the case of the Medicare-eligible retiree population because, under current law, Medicare does not reimburse for health care services provided by other Federal agencies.

MEDICARE REIMBURSEMENT

The committee believes that Medicare reimbursement to Department of Defense medical facilities for care provided to Medicare-eligible beneficiaries can produce savings to both the Department of Defense and the Department of Health and Human Services because military hospital care is generally less expensive than health care services purchased in the private sector. The potential savings from in-house care were recently revalidated in the April 1994 "Comprehensive Study of the Military Medical Care System," prepared by the Office of Program Analysis and Evaluation of the Department of Defense. This study examined the issue of whether the Department of Defense could save money by improving access to the system in order to recapture CHAMPUS workload back into the military hospital system and found that, for the given workload, care and military medical facilities is 10 to 24 percent cheaper than care purchased in the civilian sector.

The Department's implementation of TRICARE nationwide over the next several years will offer a propitious opportunity to achieve government-wide savings through Medicare reimbursement. Unfortunately, any such interaction has always been opposed by the Department of Health and Human Services. Recent national focus on health care reform has, however, resulted in some rethinking of this issue. Medicare reimbursement to both the Department of Defense and the Department of Veterans' Affairs for those who enroll in the health plans offered by those agencies was endorsed by the White House Health Reform Task Force and included in the implementing legislation, H.R. 3600.

In her July 19 testimony before the Military Forces and Personnel Subcommittee, Dr. Gail R. Wilensky, a former Administrator of the Health Care Financing Administration, provided her observations on an appropriate scenario for Medicare reimbursement to the Department of Defense:

> I believe that it is appropriate for Medicare to be a payer under limited circumstances, and those limited circumstances are that the Medicare-eligible person would opt out of Medicare and into a DOD program. There is ample precedence for this type of relationship. That is, when a individual wants to be a part of an HMO, they opt out of the regular benefit provided under fee-for-service medicine and into an HMO, and Medicare pays on a capitated basis to the HMO for all services.
>
> It is also a provision with regard to hospice care, as was mentioned earlier in the hearing. That is, an individual who is entitled to Medicare may opt out of Medicare and into a hospice program and Medicare will then pay for that.

> And it would seem to me that it would be appropriate to have an arrangement whereby an individual who is eligible for Medicare would opt into a DOD program, CHAMPUS or otherwise, and have a capitated amount paid by Medicare for these benefits.

Based on the testimony of Dr. Joseph, the three Surgeons General, and Dr. Wilensky, the committee is convinced that Medicare reimbursement is in the best interest of the military health care system and that such reimbursement will result in overall savings to the Federal Government.

Summary of Committee Recommendations

The committee recommends Medicare reimbursement to the Department of Defense for care provided to Medicare-eligible DOD beneficiaries who receive care in medical facilities of the uniformed services in either of two ways:

(1) In the case of care provided under a certified health plan, the Secretary of Health and Human Services would reimburse the plan as a Medicare HMO, as defined under section 1876 of the Social Security Act, in the same amounts and in the same manner that the Secretary reimburses other Medicare HMOs.

(2) In the case of care provided by a certified medical facility of the uniformed services for a Medicare-eligible beneficiary receiving care on a "space available" basis, rather than as a part of a health plan, the Secretary of Health and Human Services would reimburse the facility as a Medicare provider in the same amounts and in the same manner that the Secretary reimburses other Medicare providers.

In order to ensure that medical facilities meet Medicare requirements, the committee recommends that the Secretary of Defense certify annually a list of all facilities of the uniformed services and DOD health plans that either fully meet or exceed Medicare requirements or that fully comply with requirements prescribed in the service Secretaries that are intended to achieve the same purpose as the Medicare requirements and are no less stringent.

Finally, to strengthen current DOD efforts to collect from third-party payers for nonactive duty beneficiaries, the committee recommends amending section 1320b–14 of title 42, United States Code, to provide the Secretary of Defense access to insurance coverage information in the Medicare and Medicaid coverage data bank. The purpose of the data bank is to collect information on Medicare and Medicaid beneficiaries who have other insurance in order to improve the ability of both programs to identify and collect from third-party payers. Unfortunately, access to this insurance coverage information is currently restricted to Medicare and Medicaid and is not available to other Government agencies that operate or underwrite medical programs. The committee's recommendation to authorize access to the Secretary of Defense would greatly facilitate DOD's third-party collection activities.

Committee Position

On July 26, 1994, a quorum being present, the Committee on Armed Services, by voice vote, favorably approved subtitle A of title VIII of H.R. 3600 with an amendment in the nature of a substitute.

Fiscal Data

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the committee attempted to ascertain annual outlays resulting from this bill during fiscal year 1995 and the four following years.

Congressional Budget Office Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 28, 1994.

Hon. Ronald V. Dellums,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed the amendment to H.R. 3600, the Health Security Act, as ordered reported by the House Committee on Armed Services on July 26, 1994. The amendment would remove subtitle A of title VIII, the provisions that establish Uniformed Services Health Plans. It would substitute new sections that authorize reimbursement of the Department of Defense (DoD) by Medicare for care provided by DoD to Medicare-eligible individuals, and that provide access by the DoD to the Medicare and Medicaid data bank of private health insurance information for the purpose of increasing its collections from outside insurers.

CBO cannot estimate the impact this amendment would have on the costs of H.R. 3600 because it is not clear what H.R. 3600 would require of military dependents and retirees in the absence of the deleted health plans. The budgetary impact would depend on whether the health care benefit offered by DoD would constitute a health plan under the Health Security Act, and if not, whether DoD beneficiaries would be required to enroll in other plans. Depending on the answers to these questions, this amendment could either increase or decrease costs relative to the provisions of H.R. 3600.

If you would like further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer, *Director.*

Committee Cost Estimate

The committee generally concurs with the estimate contained in the report of the Congressional Budget Office.

Inflation-Impact Statement

Pursuant to clause 1(l)(4) of rule XI of the Rules of the House of Representatives, the committee attempted to determine the in-

flationary impact of the bill. The committee concludes that the bill would have no significant inflationary impact.

Oversight Findings

With reference to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

With reference to clause 2(b)(1) of rule X of the Rules of the House of Representatives, the legislation results from hearings and investigative activities.

Changes in Existing Law Made by the Bill, as Reported

Pursuant to the terms of the referral of the bill to the Committee, the Committee adopted amendments to subtitle A of title VIII.

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the portions of the bill to which amendments were adopted by the Committee, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 10, UNITED STATES CODE

* * * * * * *

Subtitle A—General Military Law

* * * * * * *

CHAPTER 55—MEDICAL AND DENTAL CARE

Sec.

* * * * * * *

§1073a. Care provided Medicare-eligible individuals: reimbursement by Secretary of Health and Human Services

(a) Reimbursement.—(1) In the case of care provided under a certified health plan to a covered beneficiary who is a Medicare-eligible individual, the Secretary of Health and Human Services shall reimburse the plan as a Medicare HMO in the same amounts and in the same manner as that Secretary reimburses other Medicare HMOs.

(2) In the case of care provided by a certified facility of the uniformed services outside the context of a health plan to a covered beneficiary who is a Medicare-eligible individual, the Secretary of Health and Human Services shall reimburse the facility as a Medicare provider in the same amounts and in the same manner as that Secretary reimburses other Medicare providers. The Secretary of

Health and Human Services shall include with each such reimbursement a Medicare explanation of benefits.

(b) CERTIFICATION REQUIREMENT.—The Secretary of Defense shall certify to the Secretary of Health and Human Services each year—

(1) a list of all facilities of the uniformed services that, with respect to Medicare requirements that are applicable to a public facility, either fully meet or exceed Medicare requirements, or fully comply with requirements of the administering Secretaries that are intended to achieve the same or similar purposes as Medicare requirements and which are no less stringent than such Medicare requirements; and

(2) a list of all health plans conducted by the Secretary of Defense that, with respect to Medicare HMO requirements that are applicable to a health plan of a public entity, either fully meet or exceed Medicare HMO requirements, or fully comply with requirements of the administering Secretaries that are intended to achieve the same or similar purposes as Medicare HMO requirements and which are no less stringent than such Medicare requirements.

(c) EFFECT OF CERTIFICATION.—For purposes of the Medicare program—

(1) a Department health care facility for which there is a certification in effect under subsection (b)(1) and which provides care to Medicare-eligible individuals shall be deemed to be a Medicare provider; and

(2) a health plan for which there is a certification in effect under subsection (b)(2) and which provides care to Medicare-eligible individuals shall be deemed to be a Medicare HMO.

(d) DEFINITIONS.—In this section:

(1) The term "Medicare program" means the health insurance program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) The term "Medicare-eligible individual" means an individual who is entitled to benefits under part A of the Medicare program.

(3) The term "Medicare HMO" means an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm).

(4) The term "Medicare provider" means an individual or entity furnishing items or services for which payments may be made under the Medicare program.

* * * * * * *

§ 1095. Health care services incurred on behalf of covered beneficiaries: collection from third-party payers

(a) * * *

* * * * * * *

(d) Notwithstanding subsections (a) and (b), collection may not be made under this section in the case of a plan administered under

title [XVIII or] XIX of the Social Security Act (42 U.S.C. [1395] *1396* et seq.).

* * * * * * *

SECTION 1144 OF THE SOCIAL SECURITY ACT

[MEDICARE AND MEDICAID] *HEALTH CARE* COVERAGE DATA BANK

SEC. 1144. (a) ESTABLISHMENT OF DATA BANK.—The Secretary shall establish a [Medicare and Medicaid] *Health Care* Coverage Data Bank (hereafter in this section referred to as the "Data Bank") to—

(1) further the purposes of section 1862(b) in the identification of, and collection from, third parties responsible for payment for health care items and services furnished to medicare beneficiaries, [and]

(2) assist in the identification of, and the collection from, third parties responsible for the reimbursement of costs incurred by any State plan under title XIX with respect to medicaid beneficiaries, upon request by the State agency described in section 1902(a)(5) administering such plan[.], *and*

(3) assist in the identification of, and the collection from, third parties responsible for payment for health care items and services furnished to uniformed services beneficiaries under chapter 55 of title 10, United States Code.

(b) INFORMATION IN DATA BANK.—

(1) IN GENERAL.—The Data Bank shall contain information obtained pursuant to section 6103(l)(12) of the Internal Revenue Code of 1986 and subsection (c).

(2) DISCLOSURE OF INFORMATION IN DATA BANK.—The Secretary is authorized until September 30, 1998—

(A) (subject to the restriction in subparagraph (D)(i) of section 6103(l)(12) of the Internal Revenue Code of 1986) to disclose any information in the Data Bank obtained pursuant to such section solely for the purposes of such section, and

(B) (subject to the restriction in subsection (c)(7)) to disclose any other information in the Data Bank *to the Secretary of Defense (or other administering Secretary under chapter 55 of title 10, United States Code) and* to any State agency described in section 1902(a)(5), employer, or group health plan solely for the purposes described in subsection (a).

* * * * * * *

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SEPARATE VIEWS OF REPRESENTATIVE JANE HARMAN

I support the Kyl substitute for two reasons. First, reimbursement to the Department of Defense for non-active beneficiaries through Medicare makes sense. Both the Assistant Secretary of Defense for Health Affairs and Service Surgeons General testified to the importance of these changes. Medicare reimbursement is necessary for military medicine to deliver quality health care. Second, the Kyl substitute is not intended to be part of any health care bill to be considered by this Congress. Thus, supporting it does not compromise my position that reproductive services including abortion must be part of health care reform. I will continue to work to ensure that the full range of reproductive services are included in any health care plan passed by Congress.

JANE HARMAN.